

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JUSTIN T. MAHER,

Plaintiff,

-against-

Case No:14 CV 3586 (VLB)

CAITLIN H. RAILO and  
QUALITY BUS SERVICE, LLC,

Defendants.

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COUNTER-STATEMENT OF MATERIAL FACTS  
IN RESPONSE TO  
STATEMENT PURSUANT TO LOCAL CIVIL RULE 56.1  
OF CAITLIN H. RAILO

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The defendant QUALITY BUS SERVICE, LLC (“Quality”), by and through its attorneys, Maynard, O’Connor, Smith & Catalinotto, LLP, as and for its Counter-Statement of Material Facts in response to the Statement Pursuant to Local Civil Rule 56.1 filed on the behalf of codefendant CAITLIN H. RAILO (“Railo”), sets forth that:

6. “A background check performed by the State of New York verified the accident and the two violations listed by Ms. Railo on her application. It also revealed an old charge of driving without insurance in 2007, and a prior DWI charge from 2003, both outside the scope of the application’s request for information.”

**Response:** Quality objects to codefendant’s counsel’s reference to “a prior DWI charge from 2003” as inadmissible hearsay.

Quality denies that the background check performed by the State of New York revealed a prior DWI charge from 2003 to Quality. Railo’s driving record abstract obtained

from the New York State Department of Motor Vehicles (“DMV”) does not reveal a prior DWI charge from 2003 (Martucci Affid., ¶ 8, Exhibit B; LaRose Affirm., Exhibit P). Nor does the DMV’s Final Qualification Notice dated November 2, 2012, make any reference to a prior DWI charge from 2003 (Martucci Affid., ¶ 13, Exhibit D; LaRose Affirm., Exhibit P). As such, there is no admissible evidence of a prior DWI charge from 2003.

Even if there was admissible evidence of a prior DWI charge from 2003, which there is not, the record before the Court demonstrates that Quality had no notice of any prior DWI charge from 2003 (Martucci Affid., ¶¶ 6-13, Exhibits A-D).

Dated: October 14, 2015

MAYNARD, O’CONNOR, SMITH  
& CATALINOTTO, LLP



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